National Renewal Fund

544. DR. B. B. DUTTA:
SHRI GAYA SINGH:
SHRI GURUDAS DAS GUPTA:

Will the Minister of INDUSTRY be pleased to refer to the answer to Unstarred Question 2325 given in the Rajya Sabha on the 24th August, 1995 and state:

(a) whether NRF is being extended to State level PSUs also; and

(b) if so, the details thereof?

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRY (DR. C. SILVERA): (a) and (b) The National Renewal Fund (NRF) has been set up by Government in February, 1992 to provide a social safety net for workers affected by technology upgradation, modernisation and industrial restructuring of Indian Industry. In the first instance, assistance from the NRF has been provided for implementation of Voluntary Retirement Scheme (VRS) in only Central Public Sector Undertakings.

Cases of Blindness

545. SHRI RAJ NATH SINGH: Will the Minister of HEALTH AND FAMILY WELFARE be pleased to state:

(a) whether Government's attention has been drawn to the news-item appearing in the Indian Express of the 28th October, 1995 under the caption "Four more aclipse-related cases at AIIMS"

(b) if so, the details thereof;

(c) whether it is a fact that some cases of blindness of children had taken place in the year 1993, when the children were taken for cataract operation; and

(d) if so, what action has been taken against the guilty authority by Government?

THE MINISTER OF HEALTH & FAMILY WELFARE (SHRI A. R. ANTULAY): (a) Yes, Sir

(b) In AIIMS, 12 patients were examined in the Solar Eclipse Cell of Dr. R. P. Centre. 2 patients aid not have any evidence of foveal burn and the rest of the patients had varying degrees of visual affection but none of them was blinded.

(c) No, Sir.

(d) Does not airse.

Inclusion of Medical Services Under Consumer Protection Act

546. SHRI GHUFRAN AZAM: Will the Minister of HEALTH AND FAMILY WELFARE be pleased to state:

(a) whether the Supreme Court, in its recent judgement has asserted that the medical services rendered by Doctors come under the purview of Consumer Protection Act;

(b) if so, the details of the rulings made by Supreme Court in this regard;

(c) whether Government Hospitals in Delhi are covered under the said Act; and

(d) if so, the details thereof?

THE MINISTER OF HEALTH & FAMILY WELFARE (SHRI A. R. ANTULAY): (a) to (d) The main conclusions of the judgement of Supreme Court of India dated 13th November, 1995 in the case of Indian Medical Association versus V.P. Santha and others in Civil Appeal No. 688 of 1993 are given in the annexed statement.

Statement

The main conclusion of the judgement of Supreme Court of India in the case of Indian Medical Association versus V.P. Santha and others dated 13th November, 1995 in Civil Appeal No. 688 of 1993 regarding Consumer Protection Act, 1986 are as under:—

Service rendered to a patient by a Medical Practitioner (except where the doctor renders service free of charge to every patient or under a contract of

personal service), by way of consultation, diagnosis and treatment, both medicinal and surgical, would fall within the ambit of 'service' as defined in Section 2 (1) (0) of the Act.

(2) The fact that medical practitioners belong to the medical profession and are subject to the disciplinary control of the Medical Council of India and/or State Medical Councils constituted under the provisions of the Indian Medical Council Act would not exclude the services rendered by them from the ambit of the Act.

(3) A 'contract of personal service' has to be distinguished from a 'contract *for* personal services'. In the absence of a relationship of master and servant between the patient and medical practitioner, the service rendered by a medical practitioner, to the patient cannot be regarded as service rendered under a 'contract *of* personal service'. Such service is service rendered under a contract *for* personal services' and is not covered by exclusionary clause of the definition of 'service' contained in Section 2 (1) (0) of the Act.

(4) The expression 'contract of personal service' in Section 2 (1) (0) of the Act cannot be confined to contracts for employment of domestic servants only and the said expression would include the employment of a medical office for the purpose of rendering medical service to the employer. The service rendered by a medical officer to his employer under the contract of employment would be outside the purview of 'service' as defined in Section 2 (1) (1) (0) of the Act.

(5) Service rendered free of chagre by a medical practitioner attached to a hospital/Nursing home or medical officer employed in a hospital/Nursing home where such services are rendred free of charge to everybody, would not be "service" as defined in Section 2(1) (o) of the Act. The payment of a token amount for registration purpose only at the hospital/Nursing home would not alter the position.

(6) Service rendered at a non-Government hospital/Nursing home where no charge whatsoever is made from any person availing the service and all patients (rich and poor) are given free service is outside the purview of the expression 'service' as defined in Section 2(1) (o) of the Act. The payment of a token amount for registration purpose only at the hospital/Nursing home would not alter the position.

(7) Service rendered at non-Government hospital/Nursing home where charges are required to be paid by the persons availing such services falls within the purview of the expression 'service' as defined in Section 2(1) (o) of the Act.

(8) Service rendered at a non-Government hospital/Nursing home where charges are required to be paid by persons who are in a position to pay and persons who cannot afford to pay are rendered service free of charge would fall within the ambit of the expression 'service' as defined in Section 2(1) (o) of the Act irrespective of the fact that the service is rendered free of charge to persons who are not in a position to pay for such services. Free service, would also be "service" and the recipient a "consumer" under the Act.

(9) Service rendered at a Government hospital/health centre/dispensary where no charge whatsoever is made from any person availing the services and all patients (rich and poor) are given free service—is outside the purview of the expression 'service' as defined in Section 2(1) (o) of the Act. The payment of a token amount for registration purpose only at the hospital/nursing home would not alter the position.

(10) Service rendered at a Government hospital/health centre/

dispensary where services are rendered on payment of charges and also rendered free of charge to other persons availing such services would fall within the ambit of the expression 'service' as defined in Section 2(1) (o) of the Act irrespactive of the fact that the service is rendered free of charge to persons who do not pay for such service. Free service would also be "service" and the recipient a "consumer" udner the Act.

(11) Service rendered by a medical practitioner or hospital/nursing home cannot be regarded as service rendered free of charge, if the person availaing the service has taken an insurance policy for medical care whereunder the charges for consultation, diagnosis and medical treatment are borne by the insurance company and such service would fall within the ambit of 'service' as defined in Section 2(1) (o) of the Act.

(12) Similarly, where, as a part of the conditions of service, the employer bears the expenses of medical treatment of an employee and his family members dependent on him, the service rendered to such an employee and his family members by a medical practitioner or a hospital/nursing home would not be free of charge and would constitute service under Section 2(1) (o) of the Act.

Examination Days Fixed By Kashmir Universitty

547. SHRI JAGMOHAN: Will the PRIME MINISTER be pleased to state:

(a) whether it is a fact that in the date-Sheet promulgated by the Kashmir University for its examination, Fridays had been kept off while some papers had been fixed for Sundays;

(b) whether some papers of the examination had been fixed for 2nd October, the birthday of Mahatama Gandhi, which is a national holiday; and

(c) whether any suggestion was made to the University by the State Government or by the Union Government in the matter?

THE MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE (SHRI BHUVNESH CHATURVEDI): (a) the University of Kashmir, is situated adjacent to the Hazratbal Shrine, where there are large congregations of pilgrims on Fridays to offer prayers. In order to avoid any law & order situation, no examinations are generally conducted of Fridays.

(b) Due to oversight the University had fixed seme papers on October 2, 1995. But as soon as this was noticed, these were postponed and fixed for 28 October, 1995. No examination was held on 2nd October, 1995.

(c) No, Sir.

Central Assistance to J&K

548. SHRI KRISHAN LAL SHARMA: Will the PRIME MINISTER be pleased to state:

(a) whether according to over of the R.B.I. Bulletin, per capita central assistance given to Jammu and Kashmir during 1993-94 was Rs. 2,291 as against Rs. 192 to Bihar, Rs. 223 to Tamil Nadu, Rs. 304 to Rajasthan and Rs. 331 to U.P.;

(b) on what basis this per capita Central assistance to Jammu and Kashmir was decided;

(c) since when the Central assistance at this level is being disbursed to Jammu and Kashmir; and

(d) whether Government propose to reduce this level of Central assistance to Jammu and Kashmir and if so, when and what is the present position in this regard?

THE MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE (SHRI BHUVNESH CHATURVEDI): (a) R.B.I. has not published data